IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 355 OF 2002.

M/s. Averina International
Resorts Ltd., a Company
incorporated under the
Companies Act, 1956 with its
registered office at Garden
View Building, Phase II,
Margao, Goa. ... Petitioners.

VERSUS

1. State of Goa,
   through the Secretary
   Tourism with Office
   at Secretariat, Panaji,
   Goa.

2. Director of Tourism,
   with office at Patto Plaza,
   Panaji, Goa.

3. Village Panchayat of
   Cavelossim, through its
   Sarpanch having his office
   at Cavelossim, Salcete,
   Goa.

4. Mr. Cristo A. Rodrigues,
   major, residing at House
   No. 169, Rodrigues Wadda,
   Cavelossim, Goa. ... Respondents.

Mr. J.E. Coelho Pereira, Senior Advocate with
Mr. V. Korgaonkar, Advocate for the Petitioners.

Mr. N.K. Sawaikar, Additional Government Advocate
for the Respondents No.1 and 2.

Mr. A.M. Redkar, Advocate for the Respondent No.3
(Absent).

Mr. N.N. Sardessai, Advocate for the Respondent No.4.

CORAM: D. G. DESHPANDE &
P. V. HARDAS, JJ.

DATE: 22ND JANUARY, 2003.

ORAL JUDGMENT: **(PER DESHPANDE, J.)**

Heard the Advocates for the Petitioners and the Respondents.

2. The petitioners run a five star Resort under the trade name of "Holiday Inn Resort Goa" spreading over an area of about 92,000 square metres of land and their grievance is that the Respondent No.2 granted permission to the Respondent No.4 for erecting a shack in front of the Holiday Inn Resort Goa. According to the petitioners, granting permission for erection of a shack in front of their Hotel is contrary to the Guidelines prescribed in this behalf. The permission for erection of shack is filed at Annexure 'A' and as per Condition No.5 the shack has to be put up only at the place indicated in the permission and no shack shall be allowed in front of any hotel property (stress added) or in the area reserved for fishing and water sports activities. The petitioners have filed a map along with the petition showing the location of the shack.

3. According to the counsel for the petitioners, the north/south breadth of the Hotel is 230 metres and therefore in the entire area to the west in front of this 230 metres border upto the sea beach there cannot be any shack.

4. The respondents opposed this prayer strongly. They also filed a map which is a copy issued by the Government of Goa, Department of Tourism and also another sketch map. According to them the hotel has its opening on the eastern side which is the frontage of the hotel and the shack is behind the hotel at a place approved by the authorities as per the permission granted by them. Therefore, according to them, the shack is not in front of the Hotel.

5. The crucial question is whether the shack is in front of the hotel. According to the Advocate for the petitioners, the words " in front of the hotel " does not mean in front of the passage of hotel or in front of the entrance of the hotel, but it also means on all the sides where the hotel has view and therefore erection of a shack on the western side which faces the sea obstructs the view and, therefore, it is in front of the hotel and contrary to the Conditions.

6. It is difficult to accept this contention. If the words "in front of the hotel" is interpreted in the manner put forth by the petitioners then it would mean that if the hotel is so constructed as to have a view from all the four directions, then every direction would be the frontage of the hotel and therefore no

shack would be permitted in any of the four directions. Such an interpretation is, according to us, not permissible. The words used are "no shack shall be allowed in front of any hotel" as per Condition No.5 or in the area reserved for fishing and water sports activities. It clearly means that the shack should not cause any obstruction from the front side of the hotel or cause obstruction to the fishing or water sports activities.

7. Admittedly, in the instant case the shack is not in front of the hotel, but on the entrance side of the hotel, but it is on the back side. It also does not affect the view because it is at a place in the west/north corner of the area.

8. The map filed by the petitioners and by the respondents which is a certified copy of the map as well as sketch map also make this position very clear that the shack of the Respondent No.4 is at the corner and admittedly not in front of the hotel but in front of the entrance of the hotel but also not at such a place as to obstruct the view of the hotel.

9. Therefore, there is no merit in this petition and the same is dismissed. There shall be no order as to costs.

D. G. DESHPANDE, J.

P. V. HARDAS, J.

sl.